

**Senate File 365 - Reprinted**

SENATE FILE 365  
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 1043)

(As Amended and Passed by the Senate March 14, 2011)

**A BILL FOR**

1 An Act relating to the placement of a juvenile on youthful  
2 offender status in district court.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 232.8, subsection 3, paragraph a, Code  
2 2011, is amended to read as follows:

3 a. The juvenile court, after a hearing and in accordance  
4 with the provisions of section 232.45, may waive jurisdiction  
5 of a child alleged to have committed a public offense so  
6 that the child may be prosecuted as an adult or youthful  
7 offender for such offense in another court. If the child,  
8 ~~except a child being prosecuted as a youthful offender,~~ pleads  
9 guilty or is found guilty of a public offense other than a  
10 class "A" felony in another court of this state, that court  
11 may suspend the sentence or, with the consent of the child,  
12 defer judgment and without regard to restrictions placed upon  
13 deferred judgments for adults, place the child on probation for  
14 a period of not less than one year upon such conditions as it  
15 may require. Upon fulfillment of the conditions of probation,  
16 a child who receives a deferred judgment shall be discharged  
17 without entry of judgment. A child prosecuted as a youthful  
18 offender shall be sentenced pursuant to section 907.3A.

19 Sec. 2. Section 232.50, subsection 1, Code 2011, is amended  
20 to read as follows:

21 1. As soon as practicable following the entry of an order of  
22 adjudication pursuant to section 232.47 or notification that  
23 the child has ~~received a youthful offender deferred sentence~~  
24 been placed on youthful offender status pursuant to section  
25 907.3A, the court shall hold a dispositional hearing in order  
26 to determine what disposition should be made of the matter.

27 Sec. 3. Section 232.52, subsection 1, Code 2011, is amended  
28 to read as follows:

29 1. Pursuant to a hearing as provided in section 232.50, the  
30 court shall enter the least restrictive dispositional order  
31 appropriate in view of the seriousness of the delinquent act,  
32 the child's culpability as indicated by the circumstances of  
33 the particular case, the age of the child, the child's prior  
34 record, or the fact that the child has ~~received a youthful~~  
35 ~~offender deferred sentence~~ been placed on youthful offender

1 status under section 907.3A. The order shall specify the  
2 duration and the nature of the disposition, including the type  
3 of residence or confinement ordered and the individual, agency,  
4 department, or facility in whom custody is vested. In the  
5 case of a child who has ~~received a youthful offender deferred~~  
6 sentence been placed on youthful offender status, the initial  
7 duration of the dispositional order shall be until the child  
8 reaches the age of eighteen.

9 Sec. 4. Section 232.54, subsection 1, paragraph g, Code  
10 2011, is amended to read as follows:

11 g. With respect to a juvenile court dispositional order  
12 entered regarding a child who has ~~received a youthful offender~~  
13 ~~deferred sentence~~ been placed on youthful offender status under  
14 section 907.3A, the dispositional order may be terminated  
15 prior to the child reaching the age of eighteen upon motion  
16 of the child, the person or agency to whom custody of the  
17 child has been transferred, or the county attorney following  
18 a hearing before the juvenile court if it is shown by clear  
19 and convincing evidence that it is in the best interests of  
20 the child and the community to terminate the order. The  
21 hearing may be waived if all parties to the proceeding  
22 agree. The dispositional order regarding a child who has  
23 ~~received a youthful offender deferred sentence~~ been placed on  
24 youthful offender status may also be terminated prior to the  
25 child reaching the age of eighteen upon motion of the county  
26 attorney, if the waiver of the child to district court was  
27 conditioned upon the terms of an agreement between the county  
28 attorney and the child, and the child violates the terms of  
29 the agreement after the waiver order has been entered. The  
30 district court shall discharge the child's youthful offender  
31 status upon receiving a termination order under this section.

32 Sec. 5. Section 232.54, subsection 1, paragraph h,  
33 unnumbered paragraph 1, Code 2011, is amended to read as  
34 follows:

35 With respect to a dispositional order entered regarding a

1 child who has ~~received a youthful offender deferred sentence~~  
2 been placed on youthful offender status under section 907.3A,  
3 the juvenile court may, in the case of a child who violates the  
4 terms of the order, modify or terminate the order in accordance  
5 with the following:

6 Sec. 6. Section 232.55, subsection 3, Code 2011, is amended  
7 to read as follows:

8 3. This section does not apply to dispositional orders  
9 entered regarding a child who has ~~received a youthful offender~~  
10 ~~deferred sentence~~ been placed on youthful offender status under  
11 section 907.3A who is not discharged from probation before or  
12 upon the child's eighteenth birthday.

13 Sec. 7. Section 232.56, Code 2011, is amended to read as  
14 follows:

15 **232.56 Youthful offenders — transfer to district court**  
16 **supervision.**

17 The juvenile court shall deliver a report, which includes  
18 an assessment of the child by a juvenile court officer  
19 after consulting with the judicial district department of  
20 correctional services, to the district court prior to the  
21 eighteenth birthday of a child who has ~~received a youthful~~  
22 ~~offender deferred sentence~~ been placed on youthful offender  
23 status under section 907.3A. A hearing shall be held in  
24 the district court in accordance with section 907.3A to  
25 determine whether the child should be discharged from youthful  
26 offender status or whether the child shall continue under the  
27 supervision of the district court after the child's eighteenth  
28 birthday.

29 Sec. 8. Section 907.3A, Code 2011, is amended to read as  
30 follows:

31 **907.3A Youthful offender deferred sentence — youthful**  
32 **offender status.**

33 1. Notwithstanding section 907.3 but subject to any  
34 conditions of the waiver order, the trial court shall, upon  
35 a plea of guilty or a verdict of guilty, ~~defer sentence of a~~

1 ~~youthful offender~~ place the juvenile over whom the juvenile  
2 court has waived jurisdiction pursuant to section 232.45,  
3 subsection 7, ~~and place the juvenile~~ on youthful offender  
4 status. The court shall transfer supervision of the youthful  
5 offender to the juvenile court for disposition in accordance  
6 with section 232.52. An adjudication of delinquency entered  
7 by the juvenile court for a public offense shall not be deemed  
8 a conviction and shall not preclude the subsequent entry of  
9 a deferred judgment, conviction, or sentence by the district  
10 court. The court shall require supervision of the youthful  
11 offender in accordance with section 232.54, subsection 1,  
12 paragraph "h", or subsection 2 of this section. ~~Notwithstanding~~  
13 ~~section 901.2, a presentence investigation shall not be~~  
14 ~~ordered by the court subsequent to an entry of a plea of guilty~~  
15 ~~or verdict of guilty or prior to deferral of sentence of a~~  
16 ~~youthful offender under this section.~~

17 2. The court shall hold a hearing prior to a youthful  
18 offender's eighteenth birthday to determine whether the  
19 youthful offender shall continue on youthful offender status  
20 after the youthful offender's eighteenth birthday ~~under the~~  
21 ~~supervision of the court or be discharged.~~ Notwithstanding  
22 section 901.2, the court may order a presentence investigation  
23 report including a report for an offense classified as a class  
24 "A" felony. The court shall review the report of the juvenile  
25 court regarding the youthful offender ~~and prepared pursuant~~  
26 to section 232.56, and any presentence investigation report,  
27 if ordered by the court. The court shall hear evidence by or  
28 on behalf of the youthful offender, by the county attorney,  
29 and by the person or agency to whom custody of the youthful  
30 offender was transferred. The court shall make its decision,  
31 pursuant to the sentencing options available in subsection  
32 3, after considering the services available to the youthful  
33 offender, the evidence presented, the juvenile court's report,  
34 the presentence investigation report if ordered by the court,  
35 the interests of the youthful offender, and interests of the

1 community.

2 3. a. Notwithstanding any provision of the Code which  
3 prescribes a mandatory minimum sentence for the offense  
4 committed by the youthful offender, following transfer of the  
5 youthful offender from the juvenile court back to the court  
6 having jurisdiction over the criminal proceedings involving the  
7 youthful offender, the court ~~may continue the youthful offender~~  
8 ~~deferred sentence or enter a sentence, which may be a suspended~~  
9 ~~sentence.~~ shall order one of the following sentencing options:

10 (1) Defer judgment and place the youthful offender on  
11 probation, upon the consent of the youthful offender.

12 (2) Defer the sentence and place the youthful offender  
13 on probation upon such terms and conditions as the court may  
14 require.

15 (3) Suspend the sentence and place the youthful offender  
16 on probation upon such terms and conditions as the court may  
17 require.

18 (4) A term of confinement.

19 (5) Discharge the youthful offender from youthful offender  
20 status and terminate the sentence.

21 b. Notwithstanding anything in section 907.7 to the  
22 contrary, if the district court ~~either~~ grants the youthful  
23 offender a deferred judgment, continues the youthful offender  
24 deferred sentence, or enters a sentence, and suspends the  
25 sentence, and places the youthful offender on probation, the  
26 term of formal supervision shall commence upon entry of the  
27 order by the district court and may continue for a period not  
28 to exceed five years. If the district court enters a sentence  
29 of confinement, and the youthful offender was previously placed  
30 in secure confinement by the juvenile court under the terms  
31 of the initial disposition order or any modification to the  
32 initial disposition order, the person shall receive credit for  
33 any time spent in secure confinement. During any period of  
34 probation imposed by the district court, a youthful offender  
35 who violates the terms of probation is subject to section

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1 908.11.